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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/903,444
Filing Date: July 09, 2001
Appellant(s): BARBER ET AL.

Josh Snider
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 9/1/2009 appealing from the Office action mailed 4/1/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

U.S. Serial No. 09/578,631 which was issued a Notice of Allowance on 8/8/2008, which further lead to the issuing of U.S. Patent No. 7,444,296 on 9/28/2008.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,159,560	Newell et al.	10/27/1992
5,934,439	Kanoh et al.	8/10/1999
5,095,195	Harman et al.	3/10/1992
5,860,362	Smith	1/19/1999
6,688,523	Koenck	2/10/2004
4,608,679	Rudy et al.	8/26/1986
6,119,932	Maloney et al.	9/19/2000
6,513,015	Ogasawara	1/28/2003
6,965,869	Tomita et al.	11/15/2005
2004/0064371	Crapo	4/1/2004
5,769,269	Peters	7/769/269
6,954,732	DeLapa et al.	10/11/2005
6,321,984	McCall et al.	11/27/2001
5,761,071	Bernstein et al.	6/2/1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1, 12, 18-19, 23, 26, 28, 29, 31, 63, 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. United States Patent 5,159,560 in view of Kanoh et al. United States Patent 5,934,439 and Harman et al. United States Patent 5,095,195 and Smith United States Patent 5,860,362.

As per claim 1 and 63, Newell et al. teaches coupling one or more kiosks to a central processing system via a telephone or dedicated line, each of the kiosks containing a plurality of optical recorded media (Newell et al., see at least, col. 3, lines 42-66 and col. 4, lines 12-20; Examiner “interprets central processing system” to be a server); determining, at the server, inventory of the optical recorded media of each of the kiosks (Newell et al., see at least, col. 3, lines 42-66 and col. 4, lines 12-20); routinely obtaining, at the server, operational status of each of the kiosks (Newell et al., see at least, col. 4, lines 13-35); a display screen in which selections and status information is displayed (Newell et al., see at least, col. 5, lines 42-61); dispensing the first local optical media from the first kiosk to the first user (Newell et al., see at least, col. 4, lines 65-68 and col. 5, lines 1-5); and accepting return of the first local optical

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media into rentable inventory of a second kiosk, the second kiosk being another one of the kiosks (Newell et al., see at least, col. 4, lines 65-68; col. 5, lines 1-5; and col. 8, lines 10-41).

The examiner notes Newell et al. is silent with respect to kiosk attached to a server via the internet; automatically communicating between the first kiosk and the server to authorize the first transaction; dispensing the first local optical media based of the authorization; and a touch screen interface providing a touch-selectable listing of optical recorded media contained within the first kiosk.

Kanoh et al. teaches kiosks attached to server via an online connection (Kanoh et al., see at least, col. 4, lines 21-33t) and communicating between the first kiosk and the server to authorize the first transactions (Kanoh et al., see at least, col. 6, lines 41-56); and dispensing the product based of the authorization (Kanoh et al., see at least, col. 6, lines 41-56).

The Examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. to include kiosks attached to server via an online connection and communicating between the first kiosk and the server to authorize the first transactions; and dispensing the product based of the authorization as taught by Kanoh et al. One of ordinary skill in the art would have been motivated to combine the teachings in order to identify and authenticate a user before dispensing a product to the customer thereby reducing loss of inventory to user's who are not registered or recognized.

Newell in view of Konah et al. fails to disclose a connecting kiosks to the internet and a touch screen interface providing a touch-selectable listing of recorded media contained within the first kiosk

Harman et al. teaches a touch screen interface providing a touch-selectable listing of recorded media contained within the first kiosk (Harman et al., see at least, col. 5, lines 23-39).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. in view of Konah et al. to include a touch screen interface providing a touch-selectable listing of optical recorded media contained within the first kiosk as taught by Harman et al.. One of ordinary skill in the art would have been motivated to combine the teachings in order users interact with a kiosk in a manner that is user friendly and easy to which would simplify the use of the kiosk.

Newell in view of Konah et al. and Harman et al. fails to disclose connecting kiosks to the internet.

Smith discloses connecting kiosks to the internet (see at least, col. 3, lines 30-33).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. in view of Konah et al. and Harman et al. to include connecting kiosks to the internet as taught by Smith. One of ordinary skill in the art would have been motivated to combine the teachings in order to allow for self-service transactions to be conducted

via the Internet and further to allow for authorization of payment means in a quick and reliable manner.

As per claim 12 and 66, Newell et al. teaches determining inventory at the server comprising tracking inventory movement of the first optical media between the first kiosk and the second kiosk (Newell et al., see at least, col. 4, lines 65-68; col. 5, lines 1-5; and col. 8, lines 10-41).

As per claim 18, the examiner notes that the limitations of claim 18 are substantially similar to that of claim 1, and is rejected under similar grounds.

As per claim 19, Newell et al. teaches managing the first and second kiosk from the central server (Newell et al., see at least col. 4, lines 12-48).

As per claim 23, Newell et al. teaches backing up at least part of the information stored in the central server within internal memory within the first kiosk (Newell et al., see at least col. 4, lines 12-48; Examiner notes the “reports” would be backed up information within the internal memory within a kiosk).

As per claim 26, Newell et al. teaches managing a group of kiosk through the via a central processing system connected to a dedicated line, the group of kiosk being a subset of all the kiosk (Newell et al., see at least, FIG. 1).

Newell et al. is silent with respect to managing the kiosks via the server through a personal computer connected to the internet.

Kanoh et al. teaches managing the kiosks via the server through a personal computer connected via an online connection (Kanoh et al., see at least, col. 6, lines 41-56; Examiner notes “judgment command” to be a form of managing kiosks for distribution of media).

The Examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. to include via the server through a personal computer connected to the via an online connection as taught by Kanoh et al. The motivation to combine is the same as claim 1, above.

Newell in view of Konah et al. and Harman et al. fails to disclose connecting kiosks to the internet.

Smith discloses connecting kiosks to the internet (see at least, col. 3, lines 30-33).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. in view of Konah et al. and Harman et al. to include connecting kiosks to the internet as taught by Smith. One of ordinary skill in the art would have been motivated to combine the teachings in order to allow for self-service transactions to be conducted via the Internet and further to allow for authorization of payment means in a quick and reliable manner.

As per claim 28, Newell et al. teaches determining inventory at any of the kiosks within the group of kiosks (Newell et al., see at least col. 4, lines 12-48).

As per claim 29, Newell et al. teaches determining inventory at any of the kiosks within the group of kiosks (Newell et al., see at least col. 4, lines 12-48).

Newell et al. is silent with the respect of determining the inventory levels via an internet connection.

Newell in view of Konah et al. and Harman et al. fails to disclose connecting kiosks to the internet.

Smith discloses connecting kiosks to the internet (see at least, col. 3, lines 30-33).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. in view of Konah et al. and Harman et al. to include connecting kiosks to the internet as taught by Smith. One of ordinary skill in the art would have been motivated to combine the teachings in order to allow for self-service transactions to be conducted via the Internet and further to allow for authorization of payment means in a quick and reliable manner.

As per claim 31, Newell et al. teaches routinely obtaining one or more alarm states associated with the first kiosk (Newell et al., see at least col. 4, lines 12-48).

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3. Claims 3-7 and 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. United States Patent 5,159,560 in view of Kanoh et al. United States Patent 5,934,439 and Harman et al. United States Patent 5,095,195 and Smith United States Patent 5,860,362 as applied to claim 1 above, and further in view of Koenck United States Patent 6,688,523.

As per claim 3 and 64, Newell et al. teaches a code on the optical media (Newell et al., see at least, col. 4, lines 49-59), and based off an identifier indicating which of the kiosks the first optical media may be returned to, and accepting the first optical media at the second kiosk is associated with an identifier (Newell et al., see at least, col. 4, lines 49-68, col. 5, lines 1-5 and col. 8, lines 29-34).

The examiner notes Newell et al., Kanoh et al., Harman et al. and Smith are all silent with respect to capturing a digital image of a code.

Koenck teaches capturing a digital image of a code (Koenck, see at least, col. 1, lines 65-67 and col. 2, lines 1-7 and 16-23).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., and Smith to include capturing a digital image of a code as taught by Koenck. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide a cost effect, portable OCR reader that would increase the read rates and accuracy of a label (Koenck, see at least, col. 1, lines 23-30).

As per claim 4, Newell et al. teaches identifying optical media from different kiosks (Newell et al., see at least, col. 4, lines 65-68; col. 5, lines 1-5; and col. 8, lines 10-41).

The examiner notes Newell et al., Kanoh et al., Harman et al., and Smith are all silent with respect to further comprising the steps of rotating the image via internal software.

Koenck teaches further comprising the steps of rotating the image via internal software (Koenck, see at least, col. 1, lines 65-67 and col. 2, lines 1-7 and 16-23).

The examiner takes the position that it would have been obvious to one skilled in the art at the time the invention was made to modify the teachings of teachings of Newell et al., Kanoh et al., Harman et al., and Smith to include further comprising the steps of rotating the image via internal software as taught by Koenck. The motivation to combine is the same as claim 3, above.

As per claims 5, 6, and 65, the Examiner notes that these limitations are substantially similar to those of claims 3 and 4, and are rejected under similar grounds. Further the examiner notes Newell et al. teaches a UPC (first code) and a unique tape identifier number (second code), which is in the form of a conventional bar code (Newell et al, see at least, col. 4, lines 49-59). Further the examiner notes it is a matter of design choice to utilize one or more bar codes that serve the same functional as one bar code.

As per claim 7, Newell et al. teaches wherein one or both of the first code and second code comprise a bar code (Newell et al., see at least, col. 4, lines 49-59).

4. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. United States Patent 5,159,560 in view of Kanoh et al. United States Patent 6,330,491 and Harman et al. United States Patent 7,058,581 and Smith United States Patent 5,860,362 and Koenck United States Patent 6,668,523, as applied to claim 3 above, and further in view of Rudy et al. United States Patent 4,608,679.

As per claim 9, Newell et al. teaches accepting return of the first optical media into rentable inventory of the second kiosk and opening a door to an input/output slot of the second kiosk to accept the optical media (Newell et al, see at least, col. 4, lines 65-68 and col. 6, lines 10-28).

The examiner notes Newell et al., Kanoh et al., Harman et al, Smith, and Koenck are all silent with respect to sensing characteristics of a case housing the first optical media, determining if the characteristics match a predetermined characteristic associated with the kiosk.

Rudy et al. teaches sensing characteristics of a case housing the first optical media (Rudy et al., see at least, col. 7, lines 15-51), and determining if the characteristics match a predetermined characteristic (Rudy et al., see at least, col. 7, lines 15-51; Examiner notes the “infrared beam... passes through the hole” to be determining a characteristic associated with the machine).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., Smith and Koenck to include sensing characteristics of a case housing the first optical media, and determining if the characteristics match a predetermined characteristic associated with the machine as taught by Rudy et al. One of ordinary skill in the art would have been motivated to combine the teachings in order to quick effective method to retrieve optical storage discs (Rudy et al., see at least, col. 2, lines 33-53).

As per claim 10, The examiner notes Newell et al., Kanoh et al., Harman et al., Smith and Koenck are all silent with respect to wherein the predetermined characteristics are defined by the physical structure of the case.

Rudy et al. teaches wherein the predetermined characteristics are defined by the physical structure of the case (Rudy et al., see at least, col. 7, lines 15-51; Examiner notes the “infrared beam... passes through the hole” to be a physical structure of the case).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., Smith and Koenck to include wherein the predetermined characteristics are defined by the physical structure of the case as taught by Rudy et al. The motivation to combine is the same as claim 9, above.

As per claim 11, The examiner notes Newell et al., Kanoh et al., Harman et al., Smith, and Koenck are all silent with respect to wherein the physical structure forms one or more holes and one or more blocked regions in the case, and wherein the step of sensing characteristics sensing the holes and blocked regions.

Rudy et al. teaches wherein the physical structure forms one or more holes and one or more blocked regions in the case, and wherein the step of sensing characteristics sensing the holes and blocked regions (Rudy et al., see at least, col. 7, lines 15-51; Examiner notes the “infrared beam... passes through the hole” to be a physical form. Further the Examiner notes that there would be blocked regions if the “infrared beam” could not pass through the hole).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., Smith and Koenck to include wherein the physical structure forms one or more holes and one or more blocked regions in the case, and wherein the step of sensing characteristics sensing the holes and blocked regions as taught by Rudy et al. The motivation to combine is the same as claim 9, above.

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5. Claims 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over over Newell et al. United States Patent 5,159,560 in view of Kanoh et al. United States Patent 5,934,439 and Harman et al. United States Patent 5,095,195 and Smith United States Patent 5,860,362 as applied to claim 1 above, and further in view of Maloney et al. United States Patent 6,119,932.

As per claim 13, The examiner notes Newell et al., Kanoh et al., Harman et al., and Smith are all silent with respect to obtaining and storing one or more images through an image capturing device located within, or in proximity to the first kiosk.

Maloney et al., teaches obtaining and storing one or more images through an image capturing device located within, or in proximity to the first machine (Maloney et al., see at least, ABSTRACT, col. 2, lines 44-52, and col. 4, lines 1-21).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al, and Smith to include obtaining and storing one or more images through an image capturing device located within, or in proximity to the first kiosk as taught by Maloney et al. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide an improved identification verification apparatus and method that keeps a record of he image (Maloney et al., see at least, col. 1, lines 33-43).

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6. Claims 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. United States Patent 5,159,560 in view of Kanoh et al. United States Patent 5,934,439 and Harman et al. United States Patent 5,095,195 and Smith United States Patent 5,860,362 and Maloney et al. United States Patent 6,119,932 as applied to claim 12 above, and further in view of Ogasawara United States Patent 6,513,015.

As per claim 14, The examiner notes Newell et al., Kanoh et al., Harman et al., Smith and Maloney et al. are all silent with respect to wherein the step of obtaining comprises the step of imaging a person proximal to the first kiosk.

Ogasawara teaches wherein the step of obtaining comprises the step of imaging a person proximal (Ogasawara, see at least, col. 9, lines 11-28) to the kiosk (Ogasawara, see at least, col. 16, lines 17-68).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., Smith and Maloney et al. to include wherein the step of obtaining comprises the step of imaging a person proximal to the kiosk as taught by Ogasawara. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide an electronic system that is able to collect and store customer recognition information in real time (Ogasawara, see at least, col. 3, lines 35-43).

As per claim 15-16, The examiner notes Newell et al., Kanoh et al., Harman et al., Smith, and Maloney et al. are all silent with respect to imaging a person conducting a user identification or credit card input at the first kiosk.

Ogasawara teaches imaging a person conducting a user identification (Ogasawara, see at least, col. 16, lines 17-68).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., Smith and Maloney et al. to include imaging a person conducting a user identification as taught by Ogasawara. The motivation to combine is the same as claim 14, above.

As per claim 17, The examiner notes Newell et al., Kanoh et al., Harman et al., Smith and Maloney et al. are all silent with respect to transmitting the images to the central server.

Ogasawara teaches transmitting an image to the central server (Ogasawara, see at least, col. 16, lines 17-68).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., Smith, Maloney et al. to include transmitting an image to the central server as taught by Ogasawara. The motivation to combine is the same as claim 14, above.

7. Claims 20-21, 24-25, 27, and 67-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. United States Patent 5,159,560 in view of Kanoh et al. United States Patent 5,934,439 and Harman et al. United States Patent 5,095,195 and Smith United States Patent 5,860,362 as applied to claim 1 above, and further in view of Tomita et al. United States Patent 6,965,869 (hereinafter Tomita).

As per claim 20 and 67, The examiner notes Newell et al., Kanoh et al., Harman et al., and Smith are all silent with respect to further comprising the steps of communicating advertising information from the server to a third kiosk, the third kiosk being one of the kiosks, and communicating the advertising information to users at the third kiosk.

Tomita discloses further comprising the steps of communicating advertising information from the server to a kiosk, the kiosk being one of the plurality kiosks, and communicating the advertising information to users at the kiosk (Tomita, see at least, col. 6, lines 26-32).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., and Smith to include further comprising the steps of communicating advertising information from the server to a kiosk, the kiosk being one of the plurality kiosks, and communicating the advertising information to users at the kiosk as taught by Tomita. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide advertising information to a

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customer, which improves and attracts the customers' interest (Tomita, see at least, col. 3, lines 2-17).

As per claim 21, The examiner notes Newell et al., Kanoh et al., Harman et al., and Smith are all silent with respect to wherein the step of communication the advertising information comprises one of displaying the information on a screen at the third kiosk and audibly communicating information to the users through speakers at the third kiosk.

Tomita discloses communicating advertising information comprises displaying the information on a screen (Tomita, see at least, col. 6, lines 26-32).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., and Smith to include communicating advertising information comprises displaying the information on a screen as taught by Tomita. The motivation to combine is the same as claim 20, above.

As per claim 24, 25, and 68 The examiner notes Newell et al., Kanoh et al., Harman et al., and Smith are all silent with respect to profiling user transactions at the second kiosk and communicating advertising information at the second kiosk based on the profiling of user transactions.

Tomita discloses profiling user transaction at a kiosk and communicating advertising information based on the profiling of user transactions (col. 5, lines 14-64, col. 6, lines 26-32, col. 8, lines 31-52).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., and Smith to include profiling user transaction at a kiosk and communicating advertising information based on the profiling of user transactions as taught by Tomita. The motivation to combine is the same as claim 20, above.

As per claim 27, The examiner notes Newell et al., Kanoh et al., Harman et al., and Smith are all silent with respect to wherein the group of kiosks comprises managing advertising information communicated to users at any of the kiosks within the group of kiosks.

However Tomita discloses wherein the group of kiosks comprises managing advertising information communicated to users at any of the kiosks within the group of kiosks (Tomita, see at least, col. 5, lines 14-64 and col. 6, lines 26-32).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., and Smith to include wherein the group of kiosks comprises managing advertising information communicated to users at any of

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the kiosks within the group of kiosks as taught by Tomita. The motivation to combine is the same as claim 20, above.

8. Claim 30 rejected under 35 U.S.C. 103(a) as being unpatentable over over Newell et al. United States Patent 5,159,560 in view of Kanoh et al. United States Patent 5,934,439 and Harman et al. United States Patent 5,095,195 and Smith United States Patent 5,860,362 as applied to claim 29 above, and further in view of Crapo United States Patent Applicant Publication 2004/0064371.

As per claim 30, Newell et al. teaches determining inventory at any of the kiosks within the group of kiosks (Newell et al., see at least col. 4, lines 12-48).

The examiner notes Newell et al., Kanoh et al., Harman et al., and Smith are silent with respect to further comprising the step of emailing discount coupons to the first user through the internet based on inventory.

Crapo discloses further comprising the step of emailing discount coupons to the first user through the Internet based on inventory (Crapo, see at least, 0052; The Examiner notes that emails... such communications may include other incentives based on partner inventory” to be emailing coupons through the internet based on inventory).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., and Smith to include the step of emailing discount coupons to the first user through the Internet based on inventory as taught by

Crapo. One of ordinary skill in the art would have been motivated to combine the teachings in order identify members for incentive awards based on a variety of behaviors (Crapo, see at least, 0015).

9. Claim 32 and 33 rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. United States Patent 5,159,560 in view of Kanoh et al. United States Patent 5,934,439 and Harman et al. United States Patent 5,095,195 and Smith United States Patent 5,860,362 as applied to claim 31 above, and further in view of Peters United States Patent 5,769,269.

As per claim 32 and 33, Newell et al., teaches routinely obtaining one or more alarm states associated with the first kiosk (Newell et al., see at least col. 4, lines 12-48).

The examiner notes Newell et al., Kanoh et al., Harman et al., and Smith are silent with respect to automatically sending information to the administration via voice and text messages by one or more of email and mobile phone, pager, or other wireless device.

Peters teaches automatically sending information to the administration via phone call (Peters, see at least, col. 16, lines 25-64).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., and Smith to include routinely obtaining, at

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the server, operational status of each of the kiosks as taught by Peters. One of ordinary skill in the art would have been motivated to combine the teachings in order to provide the ability to remotely diagnose and monitor a kiosk (Peters, see at least, col. 2, lines 16-28).

10. Claims 34, 38-40, and 70-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. United States Patent 5,159,560 in view of Kanoh et al. United States Patent 5,934,439 and Harman et al. United States Patent 5,095,195 and Smith United States Patent 5,860,362 as applied to claim 1 above, and further in view of Delapa et al. United States Patent 6,954,732 (hereinafter Delapa).

As per claim 34, The examiner notes Newell et al., Kanoh et al., Harman et al., and Smith are silent with respect to further comprising the step of generating automatic individually targeted promotions at one or more of the kiosks.

Delapa et al. teaches further comprising the step of generating automatic individually targeted promotions at one or more of the kiosks (Delapa et al., see at least, ABSTRACT and col. 3, lines 30-67).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., and Smith to include further comprising the step of generating automatic individually targeted promotions at one or more of the kiosks as taught by Delapa et al. One of ordinary skill in the art would have been

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motivated to combine the references in order to develop promotional campaigns designed to encourage increased purchases among its frequent shoppers (Delapa et al., see at least, col. 3, lines 1-3).

As per claim 38 and 39, The examiner notes Newell et al., Kanoh et al., Harman et al., and Smith are silent with respect to further comprising the step of disturbing an individually targeted coupon to one or more users of the system.

Delapa et al. teaches further comprising the step of disturbing an individually targeted coupon to one or more users of the system (Delapa et al., see at least, col. 7, lines 28-32 and lines 61-67; col. 8, lines 1-26; and col. 20, lines 22-36).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., and Smith to include further comprising the step of disturbing an individually targeted coupon to one or more users of the system taught by Delapa et al. The motivation to combine is the same as claim 34, above.

As per claim 40 and 70-71, The examiner notes Newell et al., Kanoh et al., Harman et al., and Smith are silent with respect to distributing an individually targeted coupon to a user comprises the step of distributing a coupon activated by a transaction at the first kiosk.

However Delapa et al. teaches wherein the step of distributing an individually targeted coupon to a user comprises the step of distributing a coupon activated by a

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transaction at the kiosk (col. 7, lines 28-32 and lines 61-67; col. 8, lines 1-26; and col. 20, lines 22-36).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., and Smith to include further comprising the step of disturbing an individually targeted coupon to one or more users of the system taught by Delapa et al. The motivation to combine is the same as claim 34, above.

11. Claims 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. United States Patent 5,159,560 in view of Kanoh et al. United States Patent 5,934,439 and Harman et al. United States Patent 5,095,195 and Smith United States Patent 5,860,362 and DeLapa et al. United States Patent 6,954,732 as applied to claim 34 above, and further in view of McCall et al. United States Patent 6,321,984.

As per claim 35, The examiner notes Newell et al., Kanoh et al., Harman et al. Smith, and Delapa et al. are all silent with respect to generating automatic promotions comprises the step of processing unique promotional codes.

However McCall et al teaches generating automatic promotions comprises the step of processing unique promotional codes (McCall, see at least, abstract and col. 10, lines 60-21).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of

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Newell et al., Kanoh et al., Harman et al., Smith, and DeLapa et al. to include further comprising the step of generating automatic promotions comprises the step of processing unique promotional codes as taught by McCall. One of ordinary skill in the art would have been motivated to combine the references in order to provide a purchase reward system to encourage customer loyalty by allocating a discount price to an item/service (McCall, see at least, col. 2, lines 12-29).

As per claim 36 and 37, The examiner notes Newell et al., Kanoh et al., Harman et al., Smith, and DeLapa et al. teaches a touch screen interface however are all silent with respect to the step of processing unique promotion codes comprises the step of obtaining the promotion codes from an interface at the kiosk.

McCall et al. teaches processing unique promotion codes comprises the step of obtaining the promotion codes from an interface at a POS or obtaining the promotion codes from a magnetic card swipe through a reader at the POS (McCall et al., see at least, abstract and col. 10, lines 60-21).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., Smith, and DeLapa et al. to include processing unique promotion codes comprises the step of obtaining the promotion codes from an interface at a POS or obtaining the promotion codes from a magnetic card swipe through a reader at the POS as taught by McCall et al. The motivation to combine is the same as claim 35, above.

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12. Claim 41 rejected under 35 U.S.C. 103(a) as being unpatentable over Newell et al. United States Patent 5,159,560 in view of Kanoh et al. United States Patent 5,934,439 and Harman et al. United States Patent 5,095,195 and Smith United States Patent 5,860,362 as applied to claim 1 above, and further in view of Bernstein et al. United States Patent Application Publication 5,761,071.

As per claim 41, The examiner notes that Newell et al. in view of Kanoh et al. Harman et al., and Smith teaches administrating a kiosk via a remote terminal (see at least, claim 26 rejection).

The examiner notes Newell et al., Kanoh et al., Harman et al., and Smith are silent with respect to administrating business data through a remote web interface.

Bernstein et al. teaches administrating kiosk business data though a remote interface (Bernstein et al., see at least, col. 6, lines 63-col. 7, lines 14).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al., Kanoh et al., Harman et al., and Smith to include teaches administrating kiosk business data though a remote interface as taught by Bernstein et al.. One of ordinary skill in the art would have been motivated to combine the teachings in order to update a kiosks business data with newer versions in order to suitable use in self-service activity (Bernstein, see at least, col. 2, lines 35-39)).

(10) Response to Argument

I. THE REJECTION OF CLAIMS 1, 12, 18-19, 23, 26, 28-29, 31, 63, AND 66 UNDER 35 U.S.C. 103(a) BASED ON NEWELL, KANOH, HARMAN, AND SMITH SHOULD BE REVERSED.

A. A *Prima Facie* Case of Obviousness Has Not Been Established.

1. The rejection fails to cite to any teaching or suggestion that indicates the desirability to combine the references.

The Appellant argues the combination of Kanoh, Harman, and Smith to the primary reference Newell, stating there is not justification for the combination, and therefore traverses the rejection. The examiner disagrees.

The examiner notes that proper motivation was taken with respect to the scope of the given references. For example the motivation for Kanoh: identify and authenticate a user before dispensing a product to the customer thereby reducing loss of inventory to user's who are not registered or recognized, the motivation for Harman: allow users interact with a kiosk in a manner that is user friendly and easy to which simplify the use of the kiosk, and the motivation for Smith: low for self-service transactions to be

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conducted via the Internet and further to allow for authorization of payment means in a quick and reliable manner.

The examiner notes the motivation for Kanoh can be found in col. 4, lines 21-49 (of Kanoah), more specifically, "...the credibility of the identified member is checked. If a judgment is made that renting of the video cassette is permitted... the automatic renting apparatus is responsive to the command to perform a renting operation..." From this citation examiner was able to draw out an interpretation that one of ordinary skill in the art would have been motivated to use which would be authenticating a user before dispensing a product and further the obvious reason for this would be to reduce inventory loss by not allowing "un-credible" members the ability to rent. The examiner notes this would be proper motivation for the combination of Kanoh to Newell.

The examiner notes the motivation for Harman can be found in col. 5, lines 23-39 (of Harman), more specifically, "user touches at appropriate locations in accordance with instructions presented on screen to highlight and select a cassette the he or she wishes to rent." From this citation examiner was able to draw out an interpretation that one of ordinary skill in the art would have been motivated to use which would be allowing user to follow instructions on a screen thereby making a UI that is user friendly and easy and simplified to use. The examiner notes this would be proper motivation for the combination of Harman to Newell in view of Kanoh.

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The examiner notes the motivation for Smith can be found in col. 3, lines 30-33 (of Smith), more specifically, "self serve vending machine can have the facility for credit card transactions to be transacted over the Internet." From this citation examiner was able to draw out an interpretation that one of ordinary skill in the art would have been motivated to utilize an online connection for the purpose of making reliable and authorized transactions with a credit entity. The examiner notes this would be proper motivation for the combination of Smith to Newell in view of Kanoh and Harman.

From these excerpts noted within in the cited references the examiner was able to draw interpretations that the examiner believes that one of ordinary skill in the art would have had when reading the references in order to modify the primary reference. The examiner respectively notes these are not impermissible hindsight as they are actual interpretations taken from the meaning from the text found within the actual references. One of ordinary skill in the art armed with these motivations would have been able to modify the elements of Newell to obtain a predictable result for the proposed modification.

This is why the examiner sought to reject the limitations of the claims with these four references:

Newell et al. teaches coupling one or more kiosks to a central processing system via a telephone or dedicated line, each of the kiosks containing a plurality of

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optical recorded media (Newell et al., see at least, col. 3, lines 42-66 and col. 4, lines 12-20; Examiner “interprets central processing system” to be a server); determining, at the server, inventory of the optical recorded media of each of the kiosks (Newell et al., see at least, col. 3, lines 42-66 and col. 4, lines 12-20); routinely obtaining, at the server, operational status of each of the kiosks (Newell et al., see at least, col. 4, lines 13-35); a display screen in which selections and status information is displayed (Newell et al., see at least, col. 5, lines 42-61); dispensing the first local optical media from the first kiosk to the first user (Newell et al., see at least, col. 4, lines 65-68 and col. 5, lines 1-5); and accepting return of the first local optical media into rentable inventory of a second kiosk, the second kiosk being another one of the kiosks (Newell et al., see at least, col. 4, lines 65-68; col. 5, lines 1-5; and col. 8, lines 10-41).

The examiner notes Newell et al. is silent with respect to kiosk attached to a server via the internet; automatically communicating between the first kiosk and the server to authorize the first transaction; dispensing the first local optical media based of the authorization; and a touch screen interface providing a touch-selectable listing of optical recorded media contained within the first kiosk.

Kanoh et al. teaches kiosks attached to server via an online connection (Kanoh et al., see at least, col. 4, lines 21-33t) and communicating between the first kiosk and the server to authorize the first transactions (Kanoh et al., see at least, col. 6, lines 41-56); and dispensing the product based of the authorization (Kanoh et al., see at least, col. 6, lines 41-56).

The Examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. to include kiosks attached to server via an online connection and communicating between the first kiosk and the server to authorize the first transactions; and dispensing the product based of the authorization as taught by Kanoh et al. One of ordinary skill in the art would have been motivated to combine the teachings in order to identify and authenticate a user before dispensing a product to the customer thereby reducing loss of inventory to user's who are not registered or recognized.

Newell in view of Konah et al. fails to disclose a connecting kiosks to the internet and a touch screen interface providing a touch-selectable listing of recorded media contained within the first kiosk

Harman et al. teaches a touch screen interface providing a touch-selectable listing of recorded media contained within the first kiosk (Harman et al., see at least, col. 5, lines 23-39).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. in view of Konah et al. to include a touch screen interface providing a touch-selectable listing of optical recorded media contained within the first kiosk as taught by Harman et al.. One of ordinary skill in the art would have been motivated to combine the teachings in order users interact with a kiosk in a manner that is user friendly and easy to which would simplify the use of the kiosk.

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Newell in view of Konah et al. and Harman et al. fails to disclose connecting kiosks to the internet.

Smith discloses connecting kiosks to the internet (see at least, col. 3, lines 30-33).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. in view of Konah et al. and Harman et al. to include connecting kiosks to the internet as taught by Smith. One of ordinary skill in the art would have been motivated to combine the teachings in order to allow for self-service transactions to be conducted via the Internet and further to allow for authorization of payment means in a quick and reliable manner.

The examiner further notes work in one filed of endeavor may prompt variations of technology for use in the same filed as shown by Newell, Konah, Harman, and Smith and may be based on design incentives which allow these variations of technology the ability achieve predictable result based on the knowledge of one of ordinary skill in the art.

Therefore the examiner notes the argument of lack of motivation/improper motivation is not persuasive.

Further with respect to appellant's remarks with respect to "picking" and "choosing" as noted in Appellant's Arguments, page 14. The examiner notes that Konah et al., Harman et al., and Smith were used as teaching references to teach limitations that were missing from the base reference. The examiner has noted that ample motivation was provided for such a proposed combination. The examiner notes this is not "picking" and "choosing" but evidence to that shows that the concepts as claimed by the applicant were known in the vending arts as shown by the cited references and that one of ordinary skill in the art could/would have envisioned such a combination. Therefore the examiner finds this argument not persuasive.

2. The rejection is deficient on its face for failing to consider all the language of the claims with respect to the cited art.

The Appellant argues the newly combined reference of Smith, more specifically connectively to the Internet.

As noted:

Newell et al. teaches coupling one or more kiosks to a central processing system via a telephone or dedicated line, each of the kiosks containing a plurality of optical recorded media (Newell et al., see at least, col. 3, lines 42-66 and col. 4, lines 12-20; Examiner "interprets central processing system" to be a server); determining, at the

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server, inventory of the optical recorded media of each of the kiosks (Newell et al., see at least, col. 3, lines 42-66 and col. 4, lines 12-20); routinely obtaining, at the server, operational status of each of the kiosks (Newell et al., see at least, col. 4, lines 13-35); a display screen in which selections and status information is displayed (Newell et al., see at least, col. 5, lines 42-61); dispensing the first local optical media from the first kiosk to the first user (Newell et al., see at least, col. 4, lines 65-68 and col. 5, lines 1-5); and accepting return of the first local optical media into rentable inventory of a second kiosk, the second kiosk being another one of the kiosks (Newell et al., see at least, col. 4, lines 65-68; col. 5, lines 1-5; and col. 8, lines 10-41).

The examiner notes Newell et al. is silent with respect to kiosk attached to a server via the internet; automatically communicating between the first kiosk and the server to authorize the first transaction; dispensing the first local optical media based of the authorization; and a touch screen interface providing a touch-selectable listing of optical recorded media contained within the first kiosk.

Kanoh et al. teaches kiosks attached to server via an online connection (Kanoh et al., see at least, col. 4, lines 21-33t) and communicating between the first kiosk and the server to authorize the first transactions (Kanoh et al., see at least, col. 6, lines 41-56); and dispensing the product based of the authorization (Kanoh et al., see at least, col. 6, lines 41-56).

The Examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. to include kiosks attached to server via an online connection and

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communicating between the first kiosk and the server to authorize the first transactions; and dispensing the product based of the authorization as taught by Kanoh et al. One of ordinary skill in the art would have been motivated to combine the teachings in order to identify and authenticate a user before dispensing a product to the customer thereby reducing loss of inventory to user's who are not registered or recognized.

Newell in view of Konah et al. fails to disclose a connecting kiosks to the internet and a touch screen interface providing a touch-selectable listing of recorded media contained within the first kiosk

Harman et al. teaches a touch screen interface providing a touch-selectable listing of recorded media contained within the first kiosk (Harman et al., see at least, col. 5, lines 23-39).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. in view of Konah et al. to include a touch screen interface providing a touch-selectable listing of optical recorded media contained within the first kiosk as taught by Harman et al.. One of ordinary skill in the art would have been motivated to combine the teachings in order users interact with a kiosk in a manner that is user friendly and easy to which would simplify the use of the kiosk.

Newell in view of Konah et al. and Harman et al. fails to disclose connecting kiosks to the internet.

Smith discloses connecting kiosks to the internet (see at least, col. 3, lines 30-33).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. in view of Konah et al. and Harman et al. to include connecting kiosks to the internet as taught by Smith. One of ordinary skill in the art would have been motivated to combine the teachings in order to allow for self-service transactions to be conducted via the Internet and further to allow for authorization of payment means in a quick and reliable manner.

The examiner notes that Newell teaches coupling one or more kiosks to a central processing system via a telephone or dedicated line, each of the kiosks containing a plurality of optical recorded media (Newell et al., see at least, col. 3, lines 42-66 and col. 4, lines 12-20; Examiner “interprets central processing system” to be a server). The examiner notes this reads on the applicant’s argument of Smith for “such processing does not require that kiosks communicate with their own central server.” The examiner notes that Smith was used for the combination to show that it was known at the time the invention was made that kiosks were able to connect to internet (see at least, col. 3, lines 30-33). The examiner notes that the one of ordinary skill in the art could easily achieved a predictable result with modification of replacing a telephone or dedicated line of a kiosk with internet connectivity as the means of the exchange of information from kiosks to a central server.

The examiner notes that work in one filed of endeavor may prompt variations of technology for use in the same filed as shown by Newell and Smith and may be based

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on design incentives which allow these variations of technology the ability achieve predictable result based on the knowledge of one of ordinary skill in the art.

Further the combination of Newell in view of Kanoh, Harman and Smith does indeed disclose the claimed invention as noted above.

Therefore the examiner finds this argument unpersuasive and maintains the rejection.

Dependent claims 12, 18-19, 23, 26, 28-29, 31, and 66

Claim 19

The examiner notes that Newell teaches coupling one or more kiosks to a central processing system via a telephone or dedicated line, each of the kiosks containing a plurality of optical recorded media (Newell et al., see at least, col. 3, lines 42-66 and col. 4, lines 12-20; Examiner “interprets central processing system” to be a server) and further determining, at the server, inventory of the optical recorded media of each of the kiosks (Newell et al., see at least, col. 3, lines 42-66 and col. 4, lines 12-20); routinely obtaining, at the server, operational status of each of the kiosks (Newell et al., see at least, col. 4, lines 13-35); a display screen in which selections and status information is displayed (Newell et al., see at least, col. 5, lines 42-61). The examiner notes that Smith was used for the combination to show that it was known at the time the invention

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was made that kiosks were able to connect to internet (see at least, col. 3, lines 30-33). The examiner notes that the one of ordinary skill in the art could easily achieve a predictable result with modification of replacing a telephone or dedicated line of a kiosk with internet connectivity as the means of the exchange of information from kiosks to a central server.

The examiner notes that work in one filed of endeavor may prompt variations of technology for use in the same filed as shown by references and may be based on design incentives which allow these variations of technology the ability achieve predictable result based on the knowledge of one of ordinary skill in the art.

Further the combination of Newell in view of Kanoh, Harman and Smith does indeed disclose the claimed invention as noted above.

Therefore the examiner finds this argument unpersuasive and maintains the rejection.

Claim 23

The Appellant argues that Newell and Kanoh fails to disclose "backing up at least part of information stored in the central sever within internal memory within the first kiosk." The examiner disagrees.

Newell discloses backing up at least part of the information stored in the central server within internal memory within the first kiosk (see at least col. 4, lines 12-48). The examiner notes that a "report" is interpreted to be the backup of information that is also stored in the control processing system (e.g. central server). The examiner notes these

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reports contain inventory information that is contained at the control processing system (e.g. central server). The examiner notes under the broadest reasonable interpretation this reads on the applicant's claimed invention, therefore the examiner finds this argument unpersuasive and maintains the rejection.

Claim 26 and 28

The Appellant argues that the cited references do not teach managing a group of kiosk through a central server via a personal computer connected to the Internet. The examiner notes that Newell teaches coupling one or more kiosks to a central processing system via a telephone or dedicated line, each of the kiosks containing a plurality of optical recorded media (Newell, see at least, col. 3, lines 42-66 and col. 4, lines 12-20; Examiner "interprets central processing system" to be a server) and Kanoh et al. teaches managing the kiosks via the server through a personal computer connected to the internet (Kanoh , see at least, col. 6, lines 41-56; Examiner notes "judgment command" to be a form of managing kiosks for distribution of media) and further Kanoh teaches this is within in "on-line" environment which is interpreted to be the Internet (Kanoh , see at least, col. 4, lines 21-33). Further based on the independent claim, it was shown that Smith was used for the combination to show that it was known at the time the invention was made that kiosks where able to connect to internet (see at least, col. 3, lines 30-33). The examiner notes under the broadest reasonable interpretation and with proper motivation being cited for the combination this reads on the applicant's

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claimed invention, therefore the examiner finds this argument unpersuasive and maintains the rejection.

Claim 29

The Appellant argues that the cited references do not teach determining inventory levels via an Internet Connection. Newell et al. teaches determining inventory at any of the kiosks within the group of kiosks (Newell, see at least col. 4, lines 12-48) and Kanoh et al teaches determining the status of videos via on online connection to the server (Kanoh, see at least, col. 4, lines 33-61; Examiner notes that "trade" signifies the status of the video to the server and is an exchange of inventory information regarding that video). Further based on the independent claim, it was shown that Smith was used for the combination to show that it was known at the time the invention was made that kiosks where able to connect to internet (see at least, col. 3, lines 30-33). The examiner notes under the broadest reasonable interpretation and with proper motivation being cited for the combination this reads on the applicant's claimed invention, therefore the examiner finds this argument unpersuasive and maintains the rejection.

B. The Unchallenged Evidence of Record Rebutting Obviousness is Sufficient to Overcome Even a Proper Prima Facie Case of Obviousness.

The examiner has noted that the declaration under 37 CFR 1.132 filed on 10/31/2007 was insufficient. The examiner stated in the action dated on 1/8/2008 that the arguments presented were considered but they were not persuasive (see page 31, of the Office Action dated on 1/8/2008).

The examiner still believes that the art of record used for the rejection of the claims provides ample evidence of an obviousness rejection.

As noted:

Newell et al. teaches coupling one or more kiosks to a central processing system via a telephone or dedicated line, each of the kiosks containing a plurality of optical recorded media (Newell et al., see at least, col. 3, lines 42-66 and col. 4, lines 12-20; Examiner “interprets central processing system” to be a server); determining, at the server, inventory of the optical recorded media of each of the kiosks (Newell et al., see at least, col. 3, lines 42-66 and col. 4, lines 12-20); routinely obtaining, at the server, operational status of each of the kiosks (Newell et al., see at least, col. 4, lines 13-35); a display screen in which selections and status information is displayed (Newell et al., see at least, col. 5, lines 42-61); dispensing the first local optical media from the first

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kiosk to the first user (Newell et al., see at least, col. 4, lines 65-68 and col. 5, lines 1-5); and accepting return of the first local optical media into rentable inventory of a second kiosk, the second kiosk being another one of the kiosks (Newell et al., see at least, col. 4, lines 65-68; col. 5, lines 1-5; and col. 8, lines 10-41).

The examiner notes Newell et al. is silent with respect to kiosk attached to a server via the internet; automatically communicating between the first kiosk and the server to authorize the first transaction; dispensing the first local optical media based of the authorization; and a touch screen interface providing a touch-selectable listing of optical recorded media contained within the first kiosk.

Kanoh et al. teaches kiosks attached to server via an online connection (Kanoh et al., see at least, col. 4, lines 21-33t) and communicating between the first kiosk and the server to authorize the first transactions (Kanoh et al., see at least, col. 6, lines 41-56); and dispensing the product based of the authorization (Kanoh et al., see at least, col. 6, lines 41-56).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. to include kiosks attached to server via an online connection and communicating between the first kiosk and the server to authorize the first transactions; and dispensing the product based of the authorization as taught by Kanoh et al. One of ordinary skill in the art would have been motivated to combine the teachings in order to identify and authenticate a user before dispensing a product to the customer thereby reducing loss of inventory to user's who are not registered or recognized.

Newell in view of Konah et al. fails to disclose a connecting kiosks to the internet and a touch screen interface providing a touch-selectable listing of recorded media contained within the first kiosk

Harman et al. teaches a touch screen interface providing a touch-selectable listing of recorded media contained within the first kiosk (Harman et al., see at least, col. 5, lines 23-39).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. in view of Konah et al. to include a touch screen interface providing a touch-selectable listing of optical recorded media contained within the first kiosk as taught by Harman et al.. One of ordinary skill in the art would have been motivated to combine the teachings in order users interact with a kiosk in a manner that is user friendly and easy to which would simplify the use of the kiosk.

Newell in view of Konah et al. and Harman et al. fails to disclose connecting kiosks to the internet.

Smith discloses connecting kiosks to the internet (see at least, col. 3, lines 30-33).

The examiner takes the position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Newell et al. in view of Konah et al. and Harman et al. to include connecting kiosks to the internet as taught by Smith. One of ordinary skill in the art would have been motivated to combine the teachings in order to allow for self-service transactions to be conducted

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via the Internet and further to allow for authorization of payment means in a quick and reliable manner.

The examiner notes that work in one filed of endeavor may prompt variations of technology for use in the same filed as shown by Newell, Konah, Harman, and Smith and may be based on design incentives which allow these variations of technology the ability achieve predictable result based on the knowledge of one of ordinary skill in the art.

Therefore the examiner finds the declaration unpersuasive and maintains the rejection.

II. THE REJECTION OF CLAIMS 3-7 and 64-65 UNDER 35 U.S.C. 103(a) BASED ON NEWELL, KANOH, HARMAN, SMITH and KOENCK SHOULD BE REVERSED.

The Appellant argues similar rational for the *prima facie* case of obviousness for claim

1. The examiner maintains the same rejection based on the explanations found above 1 (A) (3). Therefore the examiner finds this argument unpersuasive and maintains the rejection.

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Further the Appellant argues “electronically scanning the digital image to decode one or more bar codes... to determine an identifier of the optical media” The examiner disagrees.

Newell discloses a code on the optical media (Newell et al., see at least, col. 4, lines 49-59), and based off an identifier indicting which of the kiosks the first optical media may be returned to, and accepting the first optical media at the second kiosk is associated with an identifier (Newell, see at least, col. 4, lines 49-68, col. 5, lines 1-5 and col. 8, lines 29-34).

Koenck was added to disclose capturing a digital image of a code (Koenck, see at least, col. 1, lines 65-67 and col. 2, lines 1-7 and 16- 23) and further comprising the steps of rotating the image via internal software (Koenck, see at least, col. i, lines 65-67 and col. 2, lines 1-7 and 16-23).

The examiner took the position to modify the references, more specifically the capturing of the bar codes to include the features taught by Koenck for the purpose of provide a cost effect, portable OCR reader that would increase the read rates and accuracy of a label (Koenck, see at least, col. 1, lines 23-30).

The examiner extended the idea of design choice to further add more bar codes as needed by the system in order to perform similar functionality. The examiner notes one of ordinary skill in the art would have been able to repeat the same idea for one bar code and extend it to multiple bar codes if desired.

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The examiner notes that work in one filed of endeavor may prompt variations of technology for use in the same filed as shown by references and may be based on design incentives which allow these variations of technology the ability achieve predictable result based on the knowledge of one of ordinary skill in the art. Therefore the examiner finds this argument unpersuasive and maintains the rejection.

III. THE REJECTION OF CLAIMS 9-11 UNDER 35 U.S.C. 103(a) BASED ON NEWELL, KANOH, HARMAN, KOENCK, SMITH and RUDY SHOULD BE REVERSED.

The Appellant argues similar rational for the *prima facie* case of obviousness for claim 1. The examiner maintains the same rejection based on the explanations found above 1 (A) (3). Therefore the examiner finds this argument unpersuasive and maintains the rejection.

Further the Appellant argues the combination of Rudy. The examiner disagrees and notes proper motivation was cited from Rudy: quick effective method to retrieve optical storage discs (Rudy et al., see at least, col. 2, lines 33-53).

The examiner notes that work in one filed of endeavor may prompt variations of technology for use in the same filed as shown by references and may be based on design incentives which allow these variations of technology the ability achieve

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predictable result based on the knowledge of one of ordinary skill in the art. Therefore the examiner finds this argument unpersuasive and maintains the rejection.

Further the Appellant argues accepting return of optical media includes the additional steps of sensing characteristics of a case, determining whether the characteristics match predetermined characteristics associated with a kiosk and then opening an input slot responsive to a match.

Newell et al. discloses accepting return of the first optical media into rentable inventory of the second kiosk and opening a door to an input/output slot of the second kiosk to accept the optical media (Newell et al, see at least, col. 4, lines 65-68 and col. 6, lines 10-28).

Rudy was added to disclose sensing characteristics of a case housing the first optical media (Rudy et al., see at least, col. 7, lines 15-51), and determining if the characteristics match a predetermined characteristic (Rudy et al., see at least, col. 7, lines 15-51; Examiner notes the "infrared beam..., passes through the hole" to be determining a characteristic associated with the machine). Further the examiner notes the ability to pass a beam through a hole is noted to be a characteristic of the Kiosk. If the beam cannot pass through it would not be identified by that Kiosk.

The examiner notes that work in one filed of endeavor may prompt variations of technology for use in the same filed as shown by references and may be based on design incentives which allow these variations of technology the ability achieve

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predictable result based on the knowledge of one of ordinary skill in the art. Therefore the examiner finds this argument unpersuasive and maintains the rejection.

IV. THE REJECTION OF CLAIMS 13 UNDER 35 U.S.C. 103(a) BASED ON NEWELL, KANOH, HARMANSMITH, AND MALONEY SHOULD BE REVERSED.

The Appellant argues similar rational for the *prima facie* case of obviousness for claim

1. The examiner maintains the same rejection based on the explanations found above 1 (A) (3). Therefore the examiner finds this argument unpersuasive and maintains the rejection.

V. THE REJECTION OF CLAIMS 14-17 UNDER 35 U.S.C. 103(a) BASED ON NEWELL, KANOH, HARMAN, SMITH, MALONEY, AND OGASAWARA SHOULD BE REVERSED.

The Appellant argues similar rational for the *prima facie* case of obviousness for claim

1. The examiner maintains the same rejection based on the explanations found above 1 (A) (3). Therefore the examiner finds this argument unpersuasive and maintains the rejection.

Further the Appellant argues Ogasawara fails to disclose transmission of images to a central server. The examiner disagrees. The examiner notes Ogasawara discloses

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transmitting an image to the central server (Ogasawara, see at least, col. 16, lines 17-68). Therefore the examiner finds this argument unpersuasive and maintains the rejection.

VI. THE REJECTION OF CLAIMS 20-21, 24-25, 27, and 67-68 UNDER 35 U.S.C. 103(a) BASED ON NEWELL, KANOH, HARMAN, SMITH, AND TOMITA SHOULD BE REVERSED.

The Appellant argues similar rational for the *prima facie* case of obviousness for claim 1. The examiner maintains the same rejection based on the explanations found above 1 (A) (3). Therefore the examiner finds this argument unpersuasive and maintains the rejection.

Further the Appellant argues Tomita failing to disclose communicating advertising information to users at kiosks and further profiling user transactions and communicating the advertisement information based on profiled user transactions. The examiner disagrees.

The examiner notes Tomita discloses communicating advertising information from the server to a kiosk (Tomita, see at least, col. 6, lines 26-32). The examiner notes customer terminal is interpreted to be a kiosk (see col. 5, lines 16-30) further it has the ability to receive service information (e.g. advertisements) (see col. 6, lines 26-32).

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Further the examiner has interpreted Tomita teaches profiling users based on transactions (Tomita, see at least, col. 5, lines 14-64, col. 6, lines 26-32, col. 8, lines 31-52) and further examiner notes Tomita accrues points based on transactions performed by the customer and then presents target points (e.g. which refer to special services) to the customer. These services include special sales, etc (Tomita, see at least, col. 6, lines 26-32). The examiner notes under the broadest reasonable interpretation that is profiling user transaction (e.g. accruing of points based on transaction) and then providing special sales (e.g. advertisements) to the same customer based on accrued points.

The examiner notes that work in one field of endeavor may prompt variations of technology for use in the same field as shown by references and may be based on design incentives which allow these variations of technology the ability achieve predictable result based on the knowledge of one of ordinary skill in the art. Therefore the examiner finds this argument unpersuasive and maintains the rejection.

VII. THE REJECTION OF CLAIM 30 UNDER 35 U.S.C. 103(a) BASED ON NEWELL, KANOH, HARMAN, SMITH, AND CRAPO SHOULD BE REVERSED.

The Appellant argues similar rationale for the *prima facie* case of obviousness for claim 1. The examiner maintains the same rejection based on the explanations found above 1 (A) (3). Therefore the examiner finds this argument unpersuasive and maintains the rejection.

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Further the Appellant argues that Crapo fails to teach emailing discount coupons based upon "the inventory." The examiner disagrees.

Newell et al. discloses determining inventory at any of the kiosks within the group of kiosks (Newell et al., see at least col. 4, lines 12-48).

Crapo was added to disclose further comprising the step of emailing discount coupons to the first user through the Internet based on inventory (Crapo, see at least, 0052; The Examiner notes that emails..., such communications may include other incentives based on partner inventory" to be emailing coupons through the internet based on inventory)

The examiner took the position to modify the references, more specifically inventory stored by Newell to include the features taught by Crapo: emailing a discount coupon based on a given inventory.

The examiner notes that work in one filed of endeavor may prompt variations of technology for use in the same filed as shown by references and may be based on design incentives which allow these variations of technology the ability achieve predictable result based on the knowledge of one of ordinary skill in the art. Therefore the examiner finds this argument unpersuasive and maintains the rejection.

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**VIII. THE REJECTION OF CLAIMS 32-33 UNDER 35 U.S.C. 103(a) BASED ON
NEWELL, KANOH, HARMAN, SMITH, AND PETERS SHOULD BE REVERSED.**

The Appellant argues similar rational for the *prima facie* case of obviousness for claim

1. The examiner maintains the same rejection based on the explanations found above 1 (A) (3). Therefore the examiner finds this argument unpersuasive and maintains the rejection.

Further the Appellant argues that Peters central customer service location is not a central server and further fails to disclose sending information regarding alarm states to an administration associated with a central server. The examiner disagrees.

Newell discloses routinely obtaining one or more alarm states associated with the first kiosk (Newell et al., see at least col. 4, lines 12- 48) and further coupling one or more kiosks to a central processing system via a telephone or dedicated line, each of the kiosks containing a plurality of optical recorded media (Newell et al., see at least, col. 3, lines 42-66 and col. 4, lines 12-20; Examiner “interprets central processing system” to be a server).

Peters was added to disclose automatically sending information to the administration via phone call (Peters, see at least, col. 16, lines 25-64).

The examiner took the position to modify the references, more specifically the alarm states of Newell to include the features taught by Peters: to be transmitted by a phone call to an administrator of the service.

The examiner notes that work in one filed of endeavor may prompt variations of technology for use in the same filed as shown by references and may be based on design incentives which allow these variations of technology the ability achieve predictable result based on the knowledge of one of ordinary skill in the art. Therefore the examiner finds this argument unpersuasive and maintains the rejection.

IX. THE REJECTION OF CLAIMS 34, 38-40 and 70-71 UNDER 35 U.S.C. 103(a) BASED ON NEWELL, KANOH, HARMAN, SMITH, and DeLAPA SHOULD BE REVERSED.

The Appellant argues similar rational for the *prima facie* case of obviousness for claim 1. The examiner maintains the same rejection based on the explanations found above 1 (A) (3). Therefore the examiner finds this argument unpersuasive and maintains the rejection.

Further the Appellant argues that Delapa fails to disclose individually targeting promotions to one or more kiosk automatically. The examiner disagrees.

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Delapa et al. teaches further comprising the step of generating automatic individually targeted promotions at one or more of the kiosks (Delapa et al., see at least, ABSTRACT and col. 3, lines 30-67). The examiner has interpreted a household to be an individual entity and differs from other households. Further a household can be interpreted to be a Single Person Male or Female that resides at a given location. Therefore read on the idea of individually.

The examiner notes that work in one filed of endeavor may prompt variations of technology for use in the same filed as shown by references and may be based on design incentives which allow these variations of technology the ability achieve predictable result based on the knowledge of one of ordinary skill in the art. Therefore the examiner finds this argument unpersuasive and maintains the rejection.

X. THE REJECTION OF CLAIMS 35-27 UNDER 35 U.S.C. 103(a) BASED ON NEWELL, KANOH, HARMAN, SMITH, DeLAPA, AND McCALL SHOULD BE REVERSED.

The Appellant argues similar rational for the *prima facie* case of obviousness for claim 1. The examiner maintains the same rejection based on the explanations found above 1 (A) (3). Therefore the examiner finds this argument unpersuasive and maintains the rejection.

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Further the Appellant argues that McCall process is not automatic. The examiner disagrees.

McCall teaches that an automatic determination is made as to whether the current purchase will cause a fuel discount to be offered (McCall, see at least, col. 10, lines 53-59). This will cause a bar coded discount coupon, authorization code, other mechanism to be provided to the user (see at least, col. 10, lines 60-67). The examiner notes an alphanumeric authorization code is interpreted to be a form of a unique code given to a customer for a promotion.

The examiner notes that work in one filed of endeavor may prompt variations of technology for use in the same filed as shown by references and may be based on design incentives which allow these variations of technology the ability achieve predictable result based on the knowledge of one of ordinary skill in the art. Therefore the examiner finds this argument unpersuasive and maintains the rejection.

XI. THE REJECTION OF CLAIM 41 UNDER 35 U.S.C. 103(a) BASED ON NEWELL, KANOH, HARMAN, SMITH, AND BERNSTEIN SHOULD BE REVERSED.

The Appellant argues similar rational for the *prima facie* case of obviousness for claim 1. The examiner maintains the same rejection based on the explanations found above 1 (A) (3). Therefore the examiner finds this argument unpersuasive and maintains the rejection.

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Further the Appellant argues that Bernstein fails to disclose administrating business data . The examiner disagrees.

Bernstein teaches that a remote computer via the use of TCP/IP can perform software updates (e.g. which is a form of administrative business data) as it relates to the function of the kiosk in order to maintain productivity (e.g. use) (see at least, col. 6, lines 63-col. 7, line 14). The examiner has interpreted this to e a form of administrative business data.

The examiner notes that work in one filed of endeavor may prompt variations of technology for use in the same filed as shown by references and may be based on design incentives which allow these variations of technology the ability achieve predictable result based on the knowledge of one of ordinary skill in the art. Therefore the examiner finds this argument unpersuasive and maintains the rejection.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Asfand M. Sheikh/

Examiner, Art Unit 3627

11/19/2009

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